



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB3857

Introduced 2/26/2009, by Rep. Dennis M. Reboletti

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Rental Housing Nuisance Act. Defines certain real property leased for residential purposes as potential nuisance property if certain criminal activity was conducted on the property on 3 or more instances during any 120 day period as a result of any 3 separate factual events that have been independently investigated by any law enforcement agency that have resulted in an arrest, issuance of a warrant for an arrest, issuance of a ticket or citation or the filing of a police report. Provides that after independent review of any police reports and determination by the chief law enforcement officer that the activity described in the police reports as occurring upon the property meets the definition of nuisance activity and that the owner permitted the property to become a potential nuisance property, the chief law enforcement officer may require that the owner of the property or his or her or its property manager or other designee meet with the chief law enforcement officer to discuss the nuisance activity and steps the owner can take to mitigate or abate the activity. Provides that the chief law enforcement officer in the name of the municipality or county, in a civil action in a court of proper jurisdiction, may seek a declaration that the property is a nuisance property under the Act if mitigation efforts fail. Establishes civil penalties if the court determines the property to be nuisance property. Effective immediately.

LRB096 10334 RLC 22383 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning nuisance activity abatement.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Rental  
5 Housing Nuisance Act.

6 Section 5. Legislative findings. The General Assembly  
7 finds that criminal activities sometimes exist on rental  
8 residential property that cause unsafe conditions for  
9 neighboring residents, disrupts neighborhood and community  
10 tranquility, and causes a disproportionate strain on municipal  
11 and county law enforcement resources. These activities can  
12 become a nuisance to the municipalities and counties. Further,  
13 the General Assembly finds that an effective method of  
14 abatement of such criminal activities is to foster  
15 collaboration between the owner of the rental property and  
16 local law enforcement officials.

17 The General Assembly also finds that a state law providing  
18 for a uniform manner for municipalities to address these  
19 criminal activities and abate these activities is desirable in  
20 order to alleviate the problems caused by these criminal  
21 activities in rental housing.

22 Section 10. Definitions.

1           (a) "Chief law enforcement officer" means the chief law  
2 enforcement officer of the municipality or county or his or her  
3 designee.

4           (b) "Nuisance activity" means any activities described in  
5 items (i) through (xiv) of subsection (f) of this Section.

6           (c) "Nuisance property" means a potential nuisance  
7 property that has been adjudicated by a civil court pursuant to  
8 Section 15 of this Act to meet the elements of Section 15 of  
9 this Act and a penalty is imposed by the court pursuant to  
10 Section 20 of this Act.

11           (d) "Owner" means any person having any legal or equitable  
12 interest to title in the property in question.

13           (e) "Person" means any natural person, partnership,  
14 limited partnership, corporation, limited liability company,  
15 or other entity organized under the laws of any state or the  
16 United States.

17           (f) "Potential nuisance property" means property upon  
18 which 3 or more instances of any one or any combination of the  
19 activities listed below have occurred during any 120 day period  
20 as a result of any 3 separate factual events that have been  
21 independently investigated by any law enforcement agency that  
22 have resulted in an arrest, issuance of a warrant for an  
23 arrest, issuance of a ticket or citation or the filing of a  
24 police report:

25           (i) Disorderly conduct as defined in Section 26-1 of  
26 the Criminal Code of 1961.

1           (ii) Unlawful use of weapons as defined in Section 24-1  
2 of the Criminal Code of 1961.

3           (iii) Mob action as defined in Section 25-1 of the  
4 Criminal Code of 1961.

5           (iv) Aggravated discharge of a firearm as defined in  
6 Section 24-1.2 and 24-1.2-5.

7           (v) Gambling as defined in Section 28-1 of the Criminal  
8 Code of 1961.

9           (vi) Possession, manufacture or delivery of a  
10 controlled substance as defined in Section 401 of the  
11 Illinois Controlled Substances Act.

12           (vii) Assault or battery or any related offense as  
13 defined in Article 12 of the Criminal Code of 1961.

14           (viii) Criminal sexual abuse or related offenses as  
15 defined in Sections 12-15 and 12-16 of the Criminal Code of  
16 1961.

17           (ix) Public indecency as defined in Section 11-9 of the  
18 Criminal Code of 1961.

19           (x) Prostitution as defined in Section 11-14 of the  
20 Criminal Code of 1961.

21           (xi) Criminal damage to property as defined in Section  
22 21-1 of the Criminal Code of 1961.

23           (xii) Possession, cultivation, manufacture or delivery  
24 of cannabis as defined in the Cannabis Control Act.

25           (xiii) Illegal consumption or possession of alcohol as  
26 defined in the Liquor Control Act of 1934.

1           (xiv) Violation of any municipal ordinance or State of  
2           Illinois statute controlling or regulating the sale or use  
3           of alcoholic beverages.

4           (g) "Permitted" means to knowingly suffer, allow, consent  
5           to, acquiesce or expressly assent or agree to the doing of an  
6           act.

7           (h) "Property" means any real property and fixtures thereof  
8           leased for residential purposes or any part or portion thereof  
9           whether under an oral or written agreement.

10           Section 15. Scope of authority of municipality and county.  
11           The authority given under this Act shall be exercised by a  
12           municipality with respect to property within its corporate  
13           limits, and by a county with respect to property within  
14           unincorporated areas of the county.

15           Section 20. Procedure for the addressing potential  
16           nuisance property.

17           (a) After independent review of any police reports and  
18           determination by the chief law enforcement officer that the  
19           activity described therein as occurring upon the property meets  
20           the definition of nuisance activity and that the owner  
21           permitted the property to become a potential nuisance property,  
22           the chief law enforcement officer may require that the owner  
23           thereof or his or her or its property manager or other designee  
24           meet with the chief law enforcement officer to discuss the

1 nuisance activity and steps the owner can take to mitigate or  
2 abate the activity in accordance with the following procedure:

3 (1) The chief law enforcement officer shall notify the  
4 owner and any local property manager, agent or employee of  
5 the owner known to the chief law enforcement officer in  
6 writing that the property is a potential nuisance property.  
7 Such notice shall be provided by either personal delivery  
8 or by certified mail or by other reputable courier service  
9 that provides written confirmation of delivery, addressed  
10 to the owner and any local property manager, agent or  
11 employee of the owner, known to the chief law enforcement  
12 officer that is responsible for the property. The chief law  
13 enforcement officer shall also send notice by first class  
14 mail or other reputable courier service that provides  
15 written confirmation of delivery to the tenant at the  
16 address of the property and also to such other person and  
17 such other address as may be shown on the tax rolls of the  
18 county in which the property is located. The notice shall  
19 contain the following information:

20 (i) The street address or a legal description  
21 sufficient for identification of the potential  
22 nuisance property.

23 (ii) A statement that the chief law enforcement  
24 officer has information that the property constitutes  
25 a potential nuisance property as defined by this Act,  
26 with a concise description of the nuisance activity

1           that may exist, or that has occurred that the chief law  
2           enforcement officer believes classifies the property  
3           as a potential nuisance property.

4           (iii) Demand that the owner or his or her or its  
5           property manager or other designee respond and meet  
6           with the chief law enforcement officer within 20 days  
7           of personal delivery or receipt of the notice sent by  
8           reputable courier service or by certified mail to  
9           discuss the nuisance activity. Refusal of receipt of  
10          the notice by the owner shall be deemed receipt of the  
11          notice for purposes of this Section.

12          (2) At the meeting between the chief law enforcement  
13          officer and the owner or his or her or its property manager  
14          or other designee, the chief law enforcement officer may  
15          request that the owner or his or her or its property  
16          manager or other designee implement a reasonable abatement  
17          plan designed to alleviate and prevent future occurrences  
18          of the nuisance activity upon the property. The mitigation  
19          or abatement plan may include, but is not limited to, a  
20          review of the property's access and security, lighting,  
21          access to common areas, graffiti removal, the posting of  
22          "No Trespass" signs and municipal assistance with  
23          eviction. The mitigation or abatement plan shall be  
24          reasonable under the circumstances in its objective, cost  
25          and scope, and shall be implemented within 60 days of the  
26          meeting with the chief law enforcement officer or such

1 longer period if not practically feasible to do so within  
2 60 days.

3 If the nuisance activity complained of has or is being  
4 conducted by a tenant residing in or on the property, the chief  
5 law enforcement officer may request that the owner evict the  
6 tenant. If eviction is requested, the owner shall proceed with  
7 such an action in good faith. The municipality or county shall  
8 assist in the eviction action by reasonably cooperating with  
9 the owner, including, but not limited to, providing law  
10 enforcement officers or other municipal or county employee as  
11 witnesses regarding the nuisance activity if relevant.

12 (b) If, after complying with the procedures of paragraph  
13 (2) of subsection (a) of this Section:

14 (i) between 90 and 365 days after the meeting, the chief law  
15 enforcement officer receives a report documenting the  
16 occurrence of a subsequent instance of nuisance activity upon  
17 the property, or

18 (i) between 90 and 365 days after the meeting, the  
19 chief law enforcement officer receives a report  
20 documenting the occurrence of a subsequent instance of  
21 nuisance activity upon the property, or

22 (ii) the owner, within 60 days of the meeting or such  
23 other reasonable amount of time under the circumstances,  
24 fails to cause the implementation of a reasonable  
25 mitigation or abatement plan as requested by the chief law  
26 enforcement officer, or

1           (iii) the owner fails to respond and meet with the  
2           chief law enforcement officer within the 20 day period  
3           without good cause, then the municipality or county may  
4           seek to have the property declared a nuisance property in a  
5           civil action in a court of proper jurisdiction.

6           (c) When an owner or his or her or its property manager or  
7           other designee responds and meets with the chief law  
8           enforcement officer as required above, no statements made in  
9           connection with the furnishing of that response or in a meeting  
10          shall constitute or be used as an admission that any nuisance  
11          activity has or is occurring. This subsection (c) does not  
12          require the exclusion of any other evidence which is otherwise  
13          admissible and offered for any other purpose than an admission  
14          by the owner or his or her or its property manager or other  
15          designee.

16          Section 25. Commencement of action; burden of proof;  
17          determination of nuisance property; defenses:

18          (a) A municipality or county, in a civil action in a court  
19          of proper jurisdiction, may seek a declaration that the  
20          property is a nuisance property under this Act. The  
21          municipality or county shall have the initial burden of showing  
22          by a preponderance of the evidence that:

23                 (i) the property is one upon which 3 or more instances  
24                 of nuisance activity as set forth in the notice by the  
25                 chief law enforcement officer pursuant to clause (a) (1) of

1 Section 20 were permitted by the owner to have occurred  
2 during any 120 day period, as a result of any 3 separate  
3 factual events that have been independently investigated  
4 by any law enforcement agency that have resulted in an  
5 arrest, issuance of a warrant for an arrest, issuance of a  
6 ticket or citation or the filing of a police report,

7 (ii) the procedures of Section 20 were followed by the  
8 chief law enforcement officer, and

9 (iii) either (a) the owner or his or her or its  
10 property manager or other designee failed to respond and  
11 meet with the chief law enforcement officer within 20 days  
12 of delivery or receipt of notice of a meeting under Section  
13 20 without good cause, or (b) failed, within a reasonable  
14 time period under the circumstances, to implement a  
15 reasonable mitigation or abatement plan requested by the  
16 chief law enforcement officer, or (c) the owner Permitted a  
17 subsequent instance of any nuisance activity between 90 and  
18 365 days after meeting with the chief law enforcement  
19 officer under Section 20.

20 (b) Upon the court determining that the elements of  
21 subsection (a) of this Section have been met, then the court  
22 may, after the consideration of any defenses set forth below  
23 and all other facts and circumstances deemed relevant by the  
24 court, declare the property to be a nuisance property.

25 (c) It is a defense to an action seeking the declaration of  
26 the property as a nuisance property that the owner of the

1 property at the time in question could not, in the exercise of  
2 reasonable care or diligence, determine that nuisance activity  
3 was occurring upon the property, or could not, in spite of the  
4 exercise of reasonable care and diligence, prevent a third  
5 party from engaging in the conduct constituting the nuisance  
6 activity complained of by the municipality or county in the  
7 civil action. It shall also be a defense for an owner, if prior  
8 to the owner being served process of the civil action, the  
9 owner or his or her or its property manager or other designee,  
10 notified a law enforcement agency of suspected illegal activity  
11 and has started the eviction process against any tenant or  
12 occupant responsible for the nuisance activity complained of by  
13 the municipality or county in its civil action. It shall also  
14 be a defense if an owner has made a good faith effort to  
15 implement the reasonable mitigation or abatement plan  
16 requested by the chief law enforcement officer, pursuant to  
17 clause (a)(2) of Section 20 but the nuisance activity has not  
18 been mitigated or abated. It shall also be a defense if an  
19 owner, in trying to mitigate or abate the nuisance activity  
20 prosecuted an eviction action against the tenant but the  
21 eviction was denied by a court.

22 Section 30. Penalties.

23 (a) If a court determines that the property is a nuisance  
24 property under Section 25, the following abatement or penalties  
25 may be imposed by the court upon the owner:

1           (1) For a first offense, a civil fine not to exceed  
2           \$1000 or an injunction requiring the abatement of the  
3           nuisance activity that resulted in the property being  
4           declared a nuisance property by the court.

5           (2) For a subsequent offense, a civil fine not to  
6           exceed \$5000 or an injunction requiring abatement of the  
7           nuisance activity that resulted in the property being  
8           declared a nuisance property by the court or an injunction  
9           prohibiting the occupancy of the property for a period of  
10          up to 6 months, or in the case of a multi-unit property,  
11          any unit thereof in question for a period of up to 6  
12          months.

13          (3) Notwithstanding clauses (a)(1) and (2) of this  
14          Section, and whether or not it is a first or subsequent  
15          offense, if the court finds that an owner failed to respond  
16          and meet with the chief law enforcement officer within the  
17          time prescribed above without good cause, or if the court  
18          finds that an owner willfully failed to implement a  
19          reasonable mitigation or abatement plan requested by the  
20          chief law enforcement officer, then the court may impose a  
21          civil fine not to exceed \$10,000 or an injunction requiring  
22          abatement of the nuisance activity that resulted in the  
23          property being declared a nuisance property by the court or  
24          an injunction prohibiting the occupancy of the property for  
25          a period of up to 6 months, or in the case of a multi-unit  
26          property, any unit thereof in question for a period of up

1 to 6 months.

2 (b) If the court issues an injunction requiring the  
3 abatement of nuisance activity by a date certain set forth in  
4 the order for injunctive relief, the court, in its discretion,  
5 may impose a further fine not to exceed \$100 per day for each  
6 day the nuisance activity persists after the date certain.

7 (c) In imposing any penalty, the court shall consider the  
8 following factors, and shall cite those found applicable:

9 (1) The action or lack of action taken by the owner to  
10 mitigate or abate the nuisance activity upon the property.

11 (2) Whether the nuisance activity upon the property was  
12 repeated or continuous.

13 (3) The magnitude or gravity of the nuisance activity.

14 (4) The cooperation of the owner with the chief law  
15 enforcement officer.

16 (5) The cost to the municipality or county for  
17 investigating and correcting or attempting to correct  
18 nuisance activity.

19 (6) Whether or not the nuisance activity could have  
20 been prevented by the owner exercising reasonable care  
21 under the circumstances.

22 Section 35. Licensing. Nothing in this Act shall be  
23 construed as authorizing non-home rule municipalities to  
24 license owners of residential rental property.

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.